

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 20, 2006

AMENDED IN ASSEMBLY MAY 22, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2296

Introduced by Assembly Member Montanez

February 22, 2006

An act to amend ~~Sections 43500, 43501, 43502, 43505, 43506, 43509, 43510, 43600, 43601, 43602, 43606, and 43610.1 of, and to Section 43501 of, and to add Article 4 (commencing with Section 43050) to Chapter 1 of Part 4 of Division 30 of, the Public Resources Code, relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2296, as amended, Montanez. Solid waste: landfill: standards: closure; *and* postclosure maintenance, ~~and corrective action.~~

(1) Existing law, the California Integrated Waste Management Act, requires the California Integrated Waste Management Board (board) to adopt regulations setting forth the minimum standards for solid waste disposal, including standards for the design, operation, maintenance and ultimate reuse of solid waste facilities.

This bill would require the board to conduct a study, by January 1, ~~2009~~ 2008, to define the conditions that potentially affect solid waste landfills ~~and could pose a~~, *in order to identify potential* long-term

~~threat~~ threats, as specified. *The bill also would require the board to study various financial assurance mechanisms that would protect the state from long-term postclosure maintenance or corrective action costs if a landfill owner or operator fails to meet its legal obligation to fund postclosure maintenance or corrective action during the postclosure period. The bill would require the board to consult with specified representatives when conducting the study.* The bill would require the board to adopt regulations *and develop recommendations, by July 1, 2009, based upon the study, to create a risk assessment criteria list to evaluate existing solid waste landfills and to establish an appropriate risk factor for each solid waste landfill studies.*

~~The bill would require the owner or operator of a solid waste landfill to obtain a financial instrument, in accordance with the regulations adopted by the board, to cover the anticipated costs of corrective action, based upon the risk factor for that solid waste landfill.~~

(2) The act requires a person owning or operating a solid waste landfill to submit to the board, the appropriate California ~~regional water quality control board~~ *Regional Water Quality Control Board* (regional water board), and the local enforcement agency, a closure plan and a postclosure maintenance plan for the solid waste landfill. The act requires that person to also submit to the board evidence of financial ability in an amount, as specified, to provide for closure and postclosure maintenance contained in the closure and postclosure maintenance plans for the landfill.

~~This bill would require a person owning or operating a solid waste landfill to also submit a plan for corrective action, as the bill would define that term, for the solid waste landfill, to the board, the regional water board, and the local enforcement agency, as specified. The bill would require the person also to submit to the board evidence of financial ability to provide for closure, postclosure maintenance, and corrective action, as specified. The bill would make related changes regarding the submittal and approval of a corrective action plan, cost estimates for corrective action, and financial assurances.~~

~~The bill would make conforming changes.~~

The bill would require the board to adopt regulations on or before January 1, 2008, that would require closure, *and* postclosure maintenance, ~~and corrective action~~ cost estimates to be based on *reasonably foreseeable* costs the state may incur if the state would have to assume responsibility for those activities due to the failure of

the owner or operator, as specified. ~~The bill would require the board to adopt other, related regulations.~~

~~To the extent the bill would impose new duties on a local enforcement agency with respect to the corrective action plan, the bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 43050) is added to Chapter 1 of Part 4 of Division 30 of the Public Resources Code, to read:

Article 4. ~~Corrective Action Insurance~~ *Long-Term Threats to Landfills*

43050. ~~For purposes of this article, the following definitions shall apply:~~

(a) ~~“Financial instrument” means a trust fund or equivalent financial arrangement acceptable to the board.~~

(b) ~~“Long-term threat” means a known or reasonably foreseeable threat to the public health and safety and a known or reasonably foreseeable release of pollution to the environment.~~

43051. ~~On or before January 1, 2009, the board shall conduct a study to define the conditions that potentially affect solid waste landfills and could pose a long-term threat, including, but not limited to, proximity to an earthquake fault line, an aquifer, or population and residential centers, and the ecological and air quality impacts posed by that threat.~~

43052. ~~The board shall adopt regulations, based upon the study conducted pursuant to Section 43051, to create a risk assessment criteria list to evaluate existing solid waste landfills and to establish an appropriate risk factor for each solid waste~~

1 landfill. The regulations shall require the owner or operator of a
2 solid waste landfill to obtain a financial instrument in accordance
3 with the appropriate risk factors for that solid waste landfill.

4 ~~43053. The owner or operator of a solid waste landfill shall~~
5 ~~obtain a financial instrument, in accordance with the regulations~~
6 ~~adopted pursuant to Section 43052, to cover the anticipated costs~~
7 ~~of corrective action, based upon the risk factor for that solid~~
8 ~~waste landfill.~~

9 *43050. (a) On or before January 1, 2008, the board shall*
10 *conduct a study to define the conditions that potentially affect*
11 *solid waste landfills, including technologies and engineering*
12 *controls designed to mitigate potential risks, in order to identify*
13 *potential long-term threats to public health and safety and the*
14 *environment. The board shall also study various financial*
15 *assurance mechanisms that would protect the state from*
16 *long-term postclosure and corrective action costs in the event*
17 *that a landfill owner or operator fails to meet its legal*
18 *obligations to fund postclosure maintenance or corrective action*
19 *during the postclosure period. The board, on or before July 1,*
20 *2009, shall adopt regulations and develop recommendations for*
21 *needed legislation to implement the findings of the study.*

22 *(b) In conducting the study described in subdivision (a), the*
23 *board shall consult with representatives of the League of*
24 *California Cities, the County Supervisors Association of*
25 *California, private and public waste services, and environmental*
26 *organizations.*

27 ~~SEC. 2. Section 43500 of the Public Resources Code is~~
28 ~~amended to read:~~

29 ~~43500. (a) The Legislature hereby finds and declares that the~~
30 ~~long-term protection of air, water, and land from pollution due to~~
31 ~~the disposal of solid waste is best achieved by requiring financial~~
32 ~~assurances of the costs of closure, postclosure maintenance, and~~
33 ~~corrective action of solid waste landfills.~~

34 ~~(b) As used in this article and Article 4 (commencing with~~
35 ~~Section 43600) “corrective action” means the required response~~
36 ~~to all known or reasonably foreseeable threats to the public~~
37 ~~health and safety and all known or reasonably foreseeable~~
38 ~~releases of pollution to the environment.~~

1 ~~SEC. 3.~~

2 SEC. 2. Section 43501 of the Public Resources Code is
3 amended to read:

4 43501. (a) A person owning or operating a solid waste
5 landfill, as defined in Section 40195.1, shall do both of the
6 following:

7 (1) Upon application to become an operator of a solid waste
8 facility pursuant to Section 44001, certify to the board and the
9 local enforcement agency that all of the following have been
10 accomplished:

11 (A) The owner or operator has prepared an initial estimate of
12 ~~closure, postclosure maintenance, and corrective action costs.~~
13 *closure and postclosure maintenance costs.*

14 (i) The board shall adopt regulations that provide for an
15 increase in the initial closure; *and* postclosure maintenance; ~~and~~
16 ~~corrective action~~ cost estimates to account for cost overruns due
17 to unforeseeable circumstances, and to provide a reasonable
18 contingency comparable to that which is built into cost estimates
19 for other, similar public works projects.

20 (ii) The board shall adopt regulations on or before January 1,
21 2008, that require closure; *and* postclosure maintenance; ~~and~~
22 ~~corrective action~~ cost estimates to be based on *reasonably*
23 *foreseeable* costs the state may incur if the state would have to
24 assume responsibility for the closure; *and* postclosure
25 maintenance; ~~or corrective action~~ due to the failure of the owner
26 or operator. Cost estimates shall include, but not be limited to,
27 estimates in compliance with Sections 1770, 1773, and 1773.1 of
28 the Labor Code, and the replacement and repair costs for longer
29 lived items, including, but not limited to, repair of the
30 environmental control systems. ~~Cost estimates shall be detailed~~
31 ~~to identify the maintenance costs, repair costs, and replacement~~
32 ~~costs throughout the postclosure maintenance and corrective~~
33 ~~action period of the solid waste landfill.~~

34 (B) The owner or operator has established a trust fund or
35 equivalent financial arrangement acceptable to the board, as
36 specified in Article 4 (commencing with Section 43600).

37 (C) The amounts that the owner or operator will deposit
38 annually in the trust fund or equivalent financial arrangement
39 acceptable to the board will ensure adequate resources for

1 ~~closure, postclosure maintenance, and corrective action.~~ *closure*
2 *and postclosure maintenance.*

3 (2) Submit to the regional water board, the local enforcement
4 agency, and the board a plan for the closure of the solid waste
5 landfill; ~~and a plan for the postclosure maintenance of the solid~~
6 ~~waste landfill, and a plan for corrective action for the solid waste~~
7 landfill.

8 (b) Notwithstanding subparagraph (C) of paragraph (1) of
9 subdivision (a) or any other provision of law, if the owner or
10 operator is a county with a population of 200,000 or less, as
11 determined by the 1990 decennial census, the county shall not be
12 required to make annual deposits in excess of the amount
13 required by the federal act or any other applicable federal law, or
14 by any board-approved formula that meets the requirements of
15 the federal act.

16 (c) If not in conflict with federal law or regulations, a county
17 or city may, with regard to a solid waste landfill owned or
18 operated by the county or city, base its estimate of closure and
19 postclosure maintenance costs on the costs of employing county
20 or city employees or persons under contract with the county or
21 city in performing closure and postclosure maintenance.
22 However, even if, to meet federal requirements, the cost estimate
23 is based on the most expensive costs of closure and postclosure
24 maintenance performed by a third party, the county or city may,
25 to effect cost savings, employ county or city employees or
26 employ persons under contract to actually perform closure
27 operations or postclosure maintenance operations.

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30 **All matter omitted in this version of the bill**
31 **appears in the bill as amended in Senate,**
32 **June 20, 2006 (JR11)**
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